

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Government,

vs.

GEORGE A. ABRAHAM,

Defendant.

CR No. 08-165
Washington, DC
February 27, 2009
9:13 a.m.

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE COLLEEN KOLLAR-KOTELLY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 P R O C E E D I N G S

2 COURTROOM DEPUTY: Criminal case 08-165, United
3 States of America versus George A. Abraham. Ms. Epstein and
4 Mr. Zeno for the Government. Mr. Parker for the defendant.
5 Defendant is present in the courtroom.

6 THE COURT: All right. We're here for a sentencing
7 of Mr. Abraham. The jury found him guilty of making a false
8 statement in Counts 2, Counts 4 through 7 and Count 11. So,
9 it's six counts. The statutory maximum is five years in jail.
10 A fine of \$250,000 or both. I have a presentence report, a
11 Sentencing Memorandum by the defendant with attachments, which
12 are letters in support of the defendant. The Government's
13 Memorandum in Aid of Sentencing. OPM's Victim of Crime
14 Statement. And then did I ask for some additional briefing,
15 which both counsel provided on the issue of restitution, which
16 I have received.

17 Let me deal with the objections first. And I'll
18 deal with the objections that were made to the presentence
19 report writer, and then some additional issues that have come
20 up. There was an objection to Paragraph 8, objecting in
21 essence to the statements that the defendant did not conduct
22 five interviews nor obtain employment records in one case.
23 The response is that the jury heard from the defendant and the
24 individuals he claims he interviews or obtained employment
25 records from, and they didn't credit his testimony. They did

1 credit the testimony of the Government's witnesses. So, I
2 will leave Paragraph 8 the same.

3 Paragraphs 13, 21, 22, 25 and 64, this relates to
4 the obstruction of justice, which is under the advisory
5 Sentencing Guidelines 3C1.1. The application note in this
6 instance indicates that it can be imposed if there's a denial
7 of guilt under oath that constitutes perjury. And it does
8 exclude if people make mistakes or there is a faulty memory.
9 The defendant stated that he admitted the 404(b) conduct,
10 which was the submission to getting a job as an investigator
11 to TSA, in which he omitted the employment, which would have
12 put them on notice that he had been terminated from them
13 because of the charges related to this case.

14 And he also -- that he had admitted that he had not
15 interviewed Professor Bongiovanni, indicating he confused him
16 with somebody else. And that only two witnesses, Ms. Taylor,
17 who claimed that she denied sharing -- Ms. Taylor denied
18 sharing any employment records. And Mr. Braun, who testified
19 that he had never been interviewed about the subject at issue.
20 This is the defendant's argument -- are the only ones where
21 there is a stark dichotomy between their testimony and that of
22 the defendant, who testified that he and his wife interviewed
23 Mr. Braun, and were provided employment records by Ms. Taylor,
24 and the jury rejected the defendant's testimony.

25 The rest related to four other counts, the

1 defendant had spoken to them. There is a dispute over what
2 constitutes an interview. The defendant, quote, substituted
3 his judgment as to what was an appropriate interview, unquote.

4 The Government points out that the defendant gave
5 false testimony. I'll exclude 11 because I think that's
6 Bongiovanni -- besides Ms. Taylor and Mr. Braun, which I would
7 agree are the stark contrast in testimony. As to the other
8 counts, there's three professors and a major who testified,
9 they had brief encounters with an investigator, didn't provide
10 information regarding the subjects at issue, and didn't recall
11 or know the subjects well enough to provide any information or
12 make a recommendation. So, the information attributed to them
13 by the defendant could not have come from them.

14 I agree with the Government that this was not
15 testimony by the defendant that could be attributed to
16 mistakes, other than his claim that it was Bongiovanni or
17 faulty memory. He submitted written reports of recommendation
18 on -- although it's a total of six subjects, but I'll leave
19 Bongiovanni out because he did testify he made a mistake, but
20 on the others he didn't claim that. So, on at least the five
21 subjects setting out information from sources he claimed he
22 interviewed, it's clear that information didn't come from
23 those sources. So, he lied on the stand. Maybe he didn't lie
24 about the 404(b) evidence, but I have to say that the
25 documents were pretty straightforward, it would have been

1 difficult to lie about it. And he claimed he made a mistake
2 about Dr. Bongiovanni, that it was somebody else, but that
3 they did actually conduct the interview, and that was in Count
4 11.

5 But he did lie -- even if you take all of that out
6 of it, he did lie about getting information from the six
7 sources related to the five counts, excluding Count 11. And
8 he heard the testimony of the witnesses who got up on the
9 stand as part of the Government's case and decided to get up
10 on the stand and lie. So, I think there is a basis for
11 obstruction of justice.

12 Paragraph 12 claims the amount of the secured debt
13 on his residence is \$171,636 and not \$85,230. \$85,230. And
14 then the loan from his brother is \$100,000 not 50. As the
15 probation officer pointed out, it only reflects his portion.
16 These are jointly shared debt on the loan, including his wife.
17 So, it just indicates what can be attributed to him since it
18 is a debt that involves his wife. So, I'm not going to change
19 it. I think what they do is they just list it as it's
20 attributed to the defendant specifically.

21 Paragraph 78. He objects to mandatory restitution.
22 The probation officer agrees, and I do as well, that the
23 restitution is permissive and discretionary. It's not
24 mandatory. I'll get to this a little later here in terms of
25 what was involved with that. He claims he's unable to pay

1 because of his economic circumstances. The Court is -- on
2 restitution, when it is permissive, required, to look at the
3 economic situation of the defendant, unlike when it's
4 mandatory restitution. But you can require periodic payments
5 over time. You can look at the future earning capacity and
6 you can make them low enough, at least initially, so that he's
7 able to take care of his other responsibilities. So, I don't
8 think it necessarily means that you can't do anything. There
9 may be an issue about doing restitution and a fine, but the
10 Court would need to make a choice.

11 It isn't -- that's really I think the -- there
12 wasn't really a direct objection to the loss amount that was
13 used as part of the calculation. It doesn't -- the defendant,
14 dispute in the papers or with the probation officer the loss
15 calculations for guideline purposes, just pointed out that the
16 restitution wasn't mandatory and his financial condition -- he
17 has a lot of debts. But I do think that I do want to address
18 it because it is handled differently than it's handled for
19 restitution.

20 Once OPM learned of the defendant's falsification
21 on his report of investigation, certainly the victim is OPM.
22 They went back to each of those investigations during the time
23 period at issue and they did a reinvestigation because they
24 couldn't rely on his work. They do this on behalf of other
25 agencies, and once it's called into question, then I think it

1 was very reasonable of OPM to go back and redo these and make
2 certain, so that they could indicate to the agencies -- when
3 these are talking about top-secret classifications, that they
4 could rely on the information that was in there.

5 So, they redid 110 cases, re-contacted 737 sources.
6 So, the loss is to OPM because they were not paid again. The
7 agencies paid once and they didn't pay again to have it
8 redone. So, that's a loss that OPM absorbed, and the loss is
9 \$101,001.63. Agent Kroop determined in a signed affidavit
10 that approximately 36 percent of the sources that were
11 re-contacted showed there was either some falsification in the
12 original one, falsification indicators, or testimonies that
13 they were not able to completely validate.

14 So, I can consider the loss amount in terms of
15 coming up with the advisory sentencing guidelines can include
16 relevant conduct and acquitted conduct, and the Court has done
17 so. And I think that it's an appropriate -- the Government
18 can be a victim under these circumstances and these are real
19 losses to them, and frankly, the taxpayers.

20 3B1.3, Position of Trust. Again, it wasn't totally
21 brought up, but I just want to cover it. The issue is whether
22 it's a public or private trust, whether there's an abuse of
23 the positions to facilitate significantly the commission of a
24 crime. The defendant was hired by OPM to conduct a thorough
25 background investigation for top-secret security clearances

1 and various federal agencies. They relied on his
2 investigations to determine if the employees merited
3 top-secret clearances. He exercised significant professional
4 discretion and independence in contacting the sources, the
5 information that he asked, although they have a protocol for
6 doing this, it still is a significant discretion on his part
7 and independence in preparing the report of investigation that
8 contained this false information. So, I think it's an
9 appropriate addition in the calculation for the advisory
10 sentencing guidelines.

11 The last issue that's come up is restitution, in
12 terms of the amount. 18 U.S.C. 3663 is permissive, it's
13 discretionary. As I've indicated, the case law indicates that
14 the Government can be a victim. OPM is clearly the victim.
15 They're the ones who requested and paid for the investigations
16 and they're the ones who had to redo it, not get additional
17 payments from the agencies, so they had to basically take it
18 out of their own budget, all of which I would point out is
19 taxpayers' money.

20 The problem that I see is the Government had argued
21 and I had asked for the additional briefing that it was the
22 101 plus amount. I think the difficulty with it is when you
23 read through it, and I must say that it's not a simple section
24 to read, the mandatory one is a little easier. But in looking
25 at the section, and my sources were reading the statute -- I

1 mean the rule -- the statute. The Sentencing Commission puts
2 out guidelines, you cannot cite it as an authoritative source,
3 but it is useful, frankly, to take a look at it because they
4 do a good job of explaining how it works, and they do cite to
5 cases on the particular point. So, I did look at that. I
6 looked at the cases that counsel cited and a bunch of other
7 cases.

8 It seems to me that the false statement -- you look
9 at the charge that he's convicted of, and the problem that I
10 see with this is that -- it's making a false statement. And
11 the offense doesn't include an element of a scheme or
12 conspiracy or some sort of a pattern of conduct. If you look
13 at the elements, that's not there. So, if that's not there,
14 then you look at the loss amount caused by the specific
15 conduct that is the basis of the offense of conviction. And I
16 know there is sort of a focus on the loss amount, and this is
17 the total loss amount to OPM.

18 But I think the problem is that it would, I think,
19 stretch it unnaturally to interpret that statement, that
20 everything OPM lost as opposed to the ones that he was
21 convicted on. There is case law that indicates that you
22 don't -- cannot include relevant conduct, and that you cannot
23 include acquitted conduct. That was fairly straightforward.
24 No relevant conduct -- which you can for the loss attributable
25 under the advisory sentencing guidelines. The acquitted

1 conduct, you can't either. And I think you're left with,
2 frankly, the loss amount caused by the six counts that he was
3 actually convicted on.

4 After looking at this to start with and realizing
5 that people had not really briefed very carefully to start
6 with, and as I said, it's a complicated one once you start
7 looking at the permissive. I think this is the second time
8 I've had to deal with it other than when it's been in pleas.
9 So, it's not an easy area. I asked you to re-brief it, which
10 started me looking at it more carefully, and I did make a
11 request of the Government that they try and go back and look
12 at the six counts that he was convicted on and tell me what
13 the costs were associated with that.

14 What did they pay -- whoever reinvestigated those
15 subjects, which I think it's -- there were six subjects, the
16 total cost of having to redo it. I don't think you have to
17 break it down by how many contacts, because if I understood it
18 correctly, it sounds like on each of these they went back and
19 talked to everybody. Some information changed, some didn't,
20 but they actually went back and re-contacted all of the
21 specific sources. So, if that's what they did, if I'm correct
22 about that, then I think there should be a way of doing it.

23 But my understanding is that counsel at this point
24 is not in a position to provide it. So, having heard this
25 just briefly before coming out here, I'm going to go forward

1 with the sentencing. There is a section in the statute, if
2 you cannot ascertain 10 days before sentencing what the
3 restitution amount is, and frankly, I think it certainly -- 10
4 days before sentencing we have not been able to, both in terms
5 of the briefing that I asked, and whatever information that
6 the Government can come up with, we don't have it.

7 Under 18 U.S.C. 3664(d)(5), there's a 90-day period
8 after the sentencing within which the Government can come back
9 with information relating to the restitution, and we would
10 have a hearing about it and the Court would determine as to
11 whether it would be appropriate. I think under the statute I
12 need to make a good cause finding. I think that there is good
13 cause to allow the Government to go back and see if they
14 actually can come up with the amount of money that they
15 actually paid out. So, it's not as if it's an estimate or
16 something that they are doing. They evidently made particular
17 payments. I would like to give them the opportunity, if they
18 can, to come back with it.

19 It would give you, Mr. Parker, on behalf of your
20 client, an opportunity to look at it as well so he wouldn't
21 be doing it at the last minute. And there were issues, we
22 could go ahead and do it. But I think that since this has
23 come up at the end and I think everybody sort of was focusing
24 on this \$101,000, which I think doesn't work for restitution,
25 that I'm willing and will find that there is good cause to

1 allow you, since these are real losses to OPM, if you can,
2 during this period. And I'll set a date and you have to
3 either come back with something at that point or not. But
4 that would be the way I would resolve it.

5 It's also my view that I would not impose -- I
6 don't think Mr. Abraham can frankly sustain both, even if I
7 made them very low amounts of money, do both a fine and
8 restitution. And I would prefer, frankly, to do a restitution
9 that would go back to OPM, as opposed to a fine, which would
10 go into the general treasury, although this is all taxpayers'
11 money. But I think in terms of restitution that I will give
12 you an opportunity, and the statute appears to allow me to do
13 that. But you can't extend it, so you're either going to have
14 to fish or cut bait by that time, in terms of going back.

15 And then I would ask -- what I'll do at the end
16 is -- I've set a date by which you should come back. You
17 should share it with Mr. Parker so they have a chance to look
18 at it, lodge any objections if there are any, and tell me what
19 it is in advance so that we can have a hearing, and I'll have
20 some sense of whether it's contested or not. So, having done
21 the objections, let me move to where we are with the advisory
22 sentencing guidelines and then I'll hear from counsel.

23 In terms of the advisory sentencing guidelines, the
24 base offense is six. Since the loss is more than \$70,000,
25 it's an additional eight points. 3B1.3 is abuse of a position

1 of trust, an additional two points. The obstruction of
2 justice is an additional two points, which puts it at a total
3 offense level of 18. There are no convictions, so there's no
4 criminal history. So, it's criminal history one.

5 The sentencing guidelines under those
6 circumstances -- 18 in criminal history category one, it's 27
7 to 33 months. Probation, he wasn't eligible for. Supervised
8 release is two to three years. A fine is \$6,000 to \$60,000.
9 The restitution is to be determined, if the Government comes
10 back. And special assessment, which the Court cannot waive,
11 is \$100 as to each count, so it's a total of \$600.

12 I will adopt the presentence report as written. We
13 do need to change Paragraph 80 to indicate it's discretionary
14 and permissive and not mandatory. At least the version I have
15 still has it as mandatory and that needs to be changed. All
16 right. I can hear from the Government, Mr. Parker and
17 Mr. Abraham, if he wishes to address the Court. He doesn't
18 have to, but he can if he wishes to.

19 MS. EPSTEIN: Thank you, Your Honor. Your Honor,
20 perhaps, if I may, I'll start with the restitution issue.

21 THE COURT: Okay.

22 MS. EPSTEIN: First let me say that I personally
23 only became aware of the Court's request for loss amount
24 information early this morning, and Mr. Zeno apologizes for
25 not getting to the phone message from your clerk sooner. What

1 I have done this morning before coming in here is confer with
2 Special Agent Kroop regarding calculation of the loss amount.
3 And I asked him the Court's question: Is there a way to break
4 down the loss amount, the cost of redoing the work, just for
5 those six ROIs for which the defendant was convicted? And the
6 answer is: No.

7 And Your Honor hopefully has seen, but if not, I do
8 have an extra copy I can hand up, the time sheets that are
9 kept by the recovery agents who worked on the recovery effort.
10 And these are standard time sheets that they use for all
11 recovery efforts. Would the Court like to see this copy?

12 THE COURT: Sure. But I guess the question that I
13 have -- I assume that OPM paid some other agency or did it
14 themselves, to go back for each of these subjects, and paid an
15 amount to redo it, right? Why can't you come back with the
16 totals?

17 MS. EPSTEIN: This is why, Your Honor, and this is
18 a point that we tried to make clear in our briefs. Once a
19 single falsification in an ROI by an investigator is
20 confirmed, that leads to reworking all of his ROIs.

21 THE COURT: You're missing my -- you're missing my
22 point -- we're ships passing in the night. I understand that,
23 and that's why I said I think in terms of even the loss amount
24 for the advisory sentencing guidelines, that once you check it
25 you wind up doing all of them. The only way you're going to

1 find out if there is false information is if you go back and
2 talk to everybody. I'm assuming, and correct me if I'm wrong,
3 that they went back and talked to everybody.

4 MS. EPSTEIN: Yes.

5 THE COURT: But my question is, is that if you went
6 back and said: Okay. Subject X. And you went back and they
7 redid everything, what did they totally pay to re-do it. I'm
8 looking at totals, I don't think you have to go by each -- I
9 assume the agency or whoever did this was paid, unless it was
10 OPM that did it itself.

11 MS. EPSTEIN: It was OPM itself, Your Honor, yes.

12 THE COURT: Then they don't have any way of
13 figuring out by subject? I'm looking at total amounts. I'm
14 not looking at, you know, each hour that they had to -- did
15 they find a falsification.

16 MS. EPSTEIN: I understand.

17 THE COURT: I think if they had to do the whole
18 thing, then what did it cost them to do the whole subject all
19 over again?

20 MS. EPSTEIN: Your Honor, unfortunately, it's not
21 broken down that way. The reason it's not broken down that
22 way is because it's viewed as a single recovery effort
23 encompassing many ROIs. So, the way it is broken down is for
24 each recovery agent, and there were many from OPM, who worked
25 on this effort to keep track of the hours spent on various

1 ROIs involved in the recovery effort. They do not keep track
2 by ROI, just like if an agent works on this case, he's not
3 keeping track of hours spent on Count 1, hours spent on Count
4 2, hours spent on Count 3.

5 THE COURT: I don't -- that's fine. And that
6 worked for the loss amount, it doesn't work and it doesn't
7 change the law on restitution. So, I'll give you 90 days to
8 figure out if there's a way of going back and doing it. I
9 understood, once I got the answer back briefly this morning
10 that -- I wasn't sure whether OPM had done it or whether you
11 had given it to another investigative agency where it might
12 have been easier to figure out the totals.

13 If OPM did it, then I assumed you did it as a
14 larger project. And that works for the loss amount, and I
15 don't have any problem with that. I understood that you need
16 to go back and talk to everybody to figure out what was true,
17 what was not true, what potentially was not exact, and that's
18 why the break down that Agent Kroop gave about the 36 percent
19 in terms of the, you know, the agency viewed in terms of the
20 whole reclaimed project or whatever --

21 MS. EPSTEIN: Recovery project.

22 THE COURT: How much of it was problematic, from
23 they couldn't verify to its falsification. But if you want
24 the restitution, which I think OPM does, they may need to go
25 back and figure out a way to do it. But I just don't think it

1 works -- it works for the loss because it's relevant conduct
2 and acquitted conduct that you can include. I don't think it
3 works when you talk -- the basis of the conviction is the
4 language -- the loss amount is in there, so it would make you
5 think, okay, I can just do the whole amount. But it ties it
6 to the basis for the conviction, and I think as it's been
7 interpreted it hasn't included acquitted and relevant conduct.
8 And, as I said, I don't see it as an element of sort of a
9 conspiracy kind of scheme or, you know, I forget the language
10 that they had -- a pattern or something --

11 MS. EPSTEIN: -- pattern of criminal activity.

12 THE COURT: -- it sometimes is in elements of
13 particular crimes, it's not in making a false statement. But
14 I'll give you 90 days, we'll figure out what that is. You can
15 come back or not come back, the statute allows you to do that.
16 And I realize that this came up sort of later when I was -- I
17 had done the sentencing, I try and do them early and go back
18 and revisit because I find -- as I go back and look I begin to
19 notice other things that I need to make sure that I cover.

20 As I began to focus in on the -- I was looking at
21 the loss amount, I was satisfied with that, and then I began
22 to look at the restitution and realized that this was more
23 complicated than I had originally expected, so that's why I
24 asked for the briefing. I did some independent research on it
25 in terms of figuring it out. But I don't think it works being

1 able to use the same figure, so I'll give you the time. But
2 that is an explanation, for the record, of why you're having a
3 problem this morning.

4 MS. EPSTEIN: Yes, Your Honor. Again, I don't want
5 to belabor the point. I guess I would only say that we
6 actually respectfully disagree on what the case law says with
7 respect to restitution. As we read the case law on
8 restitution, when they talk about the loss flowing from the
9 specific offense of conviction, the way we read it is, you
10 know, but for that offense of conviction there would not have
11 been this loss. And if in fact that is the correct
12 interpretation, which I believe it is, then the entire loss
13 amount of \$100,000 would be attributable to each of these
14 offenses of conviction.

15 THE COURT: Take it up on appeal and they can
16 resolve it for us. I didn't find any D.C. cases that were
17 particularly on point, but if you want at least some of it
18 you're going to have to get it done. I understand what the
19 argument is. I don't think, when you look at the cases, there
20 are sufficient cases that talk about excluding relevant
21 conduct, which I think is what a lot of this is, and excluding
22 acquitted conduct, which would be at least Count 12, that
23 you're then left with the conviction.

24 There are arguments that you can make. I think
25 it's a stretch, and that's why -- in looking at it in terms

1 of -- at the bank you get convicted of using somebody's credit
2 card, and the loss amount was done for all of the credit cards
3 that were done with the bank because the view was that these
4 were different victims. Here you can argue that OPM is the
5 only victim. I still think -- that's why I said no case was
6 perfection on this, but in looking at it, it seemed to me it
7 was a major stretch, frankly, to do the 101. And it seemed to
8 me that that really -- especially since we don't have the
9 context to compare it in terms of what it actually costs for
10 the convictions. But I'm certainly willing to do it for the
11 convictions if you can come up with a way of doing it.

12 MS. EPSTEIN: Okay. We appreciate that
13 opportunity, Your Honor. So, with respect to the other
14 sentencing issues, and given the Court's rulings on the
15 guideline range, I think I'll just jump to the 3553(a)
16 factors. We've already addressed these, obviously, in our
17 briefing, and I just want to make a couple of points. The
18 defendant in his sentencing memorandum argues that his motive
19 here was uberous, not greed. And the Government absolutely
20 disagrees with this.

21 It's clear from the presentence report as well as
22 from all the evidence that came out at trial that the
23 defendant did have a financial motivation here. And it
24 appears from reading not just the sentencing memo of the
25 defendant but also the letters that were attached that the

1 defendant really thought that he could have it all. That he
2 could have his BMW, that he could give generously to family
3 and friends, and that's fine if you're Bill Gates, but most of
4 us are not in a position to do that. And it's certainly not
5 appropriate --

6 THE COURT: Slow down.

7 MS. EPSTEIN: I'm sorry, Your Honor. And it's
8 certainly not appropriate to do that if the way in part that
9 you fund that is by falsifying national security background
10 investigation reports. And that's exactly what the defendant
11 did in this case. He did this in complete disregard for the
12 national security implications. And the Court is clearly
13 well-aware of those implications in this situation.

14 So, we do believe that this is a form of greed the
15 defendant was acting on, and we believe that this should be
16 taken into account in choosing his exact sentence. The
17 defendant also, apparently, has told his family and friends,
18 based on the letters he's submitted to the Court, that these
19 were isolated instances of wrongdoing.

20 And I believe it's clear from the sentencing memo,
21 and specifically the affidavit of Special Agent Kroop that we
22 submitted, that these were not isolated instances of
23 falsification, these were pervasive falsifications. Your
24 Honor has already cited the 36 percent figure that OPM came up
25 with as a result of the recovery efforts. Thirty-six percent

1 of the sources either confirmed falsifications, possible
2 falsifications, indicia of falsifications, or had to be
3 replaced for other reasons, such as significant discrepancies.

4 This indicates a pattern of falsification --
5 pervasive falsification. And it makes clear that there were
6 many more instances than simply the ones that we chose to go
7 forward with at trial for strategic reasons. In addition, the
8 defendant has tried to claim in his sentencing memo that he
9 has in some form taken responsibility for his crimes. As Your
10 Honor already addressed, he got on the stand and made further
11 false statements under oath in this trial.

12 We certainly don't think he has taken any
13 responsibility, and we are very disturbed by the fact that he
14 continues to try to minimize his criminal wrongdoing by
15 citing -- he used a shortened interview technique or a
16 different interview technique. It's very clear, this was not
17 simply an alternative interview technique that he was using.
18 He was not doing these interviews. And it's clear from his
19 training and from his own statements on cross-examination that
20 he was well-aware of what an interview was and what an
21 interview wasn't. And he simply chose not to do it.

22 And that gets to another point I wanted to make.
23 The defendant has made a series of bad choices throughout --
24 not just the period of his falsifications on the ROIs, but
25 since then. He chose to falsify many of his reports in his

1 ROIs. He also chose to make a false statement, this was the
2 404(b) evidence, on his own SF-85P when he was applying for
3 employment with TSA, and during the pendency of our
4 investigation in this case. He has chosen, rather than being
5 honest and admitting what he did, he has chosen to continue to
6 make false statements as recently as his trial testimony.

7 And we feel that all of this pattern of false
8 statements, this pattern of poor choices, should be taken into
9 account in formulating his sentence. His sentence should
10 reflect that. In addition, the defendant makes the point that
11 his history as a law enforcement officer, as a former member
12 of the military, should be taken into account and should lead
13 to leniency in sentencing in this case. And the Government
14 thinks actually the result is just the opposite.

15 This is not a situation of a 24-year-old kid who
16 was in his first job out of college and didn't know any
17 better. This was someone who, as he points out, had guarded
18 our embassies while he was in the military. He was fully
19 aware of what risks are to our national security. He was
20 fully aware of the importance of national security background
21 investigations. And yet he chose, in blatant disregard of
22 those risks, to falsify his reports to get more money, to get
23 the case done, to get more work, to make more money. And that
24 is one of the most disturbing parts of this case from the
25 Government's perspective.

1 We think his background makes it not easier to
2 excuse his falsifications, but much harder to excuse his
3 falsifications, and his sentence should take that into
4 account.

5 Finally, a point about deterrence. The defendant
6 points out in his sentencing memo that he is unlikely to
7 reoffend. And we don't necessarily disagree with that.
8 However, deterrence, as the Court is well-aware, includes
9 not just Mr. Abraham himself, but all of the background
10 investigators out there that are working on these cases. And
11 as the Court is well-aware, having already taken a guilty plea
12 from a background investigator -- and by the way, there are
13 two more guilty pleas happening in this courthouse today of
14 other background investigators. This is a problem that needs
15 to be addressed.

16 The deterrence issue is deterring other background
17 investigators from following the defendant's corrupt path, and
18 that is a very important aspect of the sentencing in this
19 case. And this is something that 3553(a) takes into account
20 and orders the Court to take into account when formulating the
21 sentence. And we believe that putting the defendant in jail,
22 and specifically we're asking for the middle of the guideline
23 range, 30 months, would adequately take that factor and all
24 the other factors that I've mentioned into account. And that
25 is our request, Your Honor.

1 THE COURT: All right. Mr. Parker.

2 MR. PARKER: Your Honor, if I may first comment on
3 the use by the Government of the 35 percent figure. As I
4 recall the information presented in that regard, when an
5 individual who was contacted by OPM might respond to the
6 question whether or not Mr. Abraham -- or do they recall being
7 interviewed, if they responded: Well, I don't remember. That
8 kind of response caused that interview to be thrown into that
9 35 -- 36 percent figure. I think that's acknowledged in the
10 documentation.

11 My point is that that figure is not an accurate
12 figure that would represent what I would contend constitutes
13 falsifications. The Court is well-aware the Government,
14 before trial, dismissed a number of counts that they didn't
15 feel comfortable in trying to take to the jury. And I think
16 clearly the use of an argument -- as argument that 36 percent
17 is some kind of indication as to the magnitude of the wrongful
18 conduct that Mr. Abraham committed, is not supported by the
19 facts. And so I certainly suggest that what Mr. Abraham is
20 convicted of certainly is what supports the sentence, not some
21 claim as to what's in a -- what might be a problematic
22 response by an interviewee that causes OPM to then go back and
23 do further investigation.

24 THE COURT: I think they did on Page 3 of the
25 report from Agent Kroop, it does break down what they viewed

1 as confirmed falsification as opposed to falsification
2 indicators or couldn't be validated, which is a larger amount.
3 But I think in the overall conduct I would just simply say
4 that the -- once there were falsifications that were found, it
5 leaves them with the posture of having to go back and redo all
6 of it. I know if somebody indicates that they can't remember
7 one way or the other, they can't rely on the information that
8 was provided then by Mr. Abraham and assume that he actually
9 spoke to them.

10 So, you may view it as -- even in that -- as not
11 necessarily falsification, but it did result in their having
12 to redo it and getting the new information again.

13 MR. PARKER: I understand.

14 THE COURT: And whether it would have been the same
15 information or not, it still creates a problem.

16 MR. PARKER: I understand the Court's point. With
17 regard to the Government's argument that somehow in our
18 request for a variance from the guideline sentence we were
19 proffering Mr. Abraham's background as an excuse, that is not
20 the basis on which we were proffering Mr. Abraham's
21 background. In fact, it was being proffered specifically to
22 deal with the factor that's enumerated in 18 U.S.C. 3553(a),
23 that being the defendant's history and his characteristics,
24 which the Court is required in trying to reach a sufficient
25 but not greater than necessary sentence. That is, to impose a

1 reasonable sentence that is sufficient but not necessarily
2 greater than.

3 Clearly, Mr. Abraham's background, as documented,
4 not only in letters but extensively by the probation officer
5 who has subsequently interviewed Mr. Abraham, is that of,
6 indeed, not just law abiding, but a law enforcement officer of
7 decades. I understand the Government's point in which they
8 say, well, a person with that background and experience
9 shouldn't be -- should not commit this criminal conduct, and
10 we all understand that argument, but we're not sitting here or
11 standing here suggesting that that kind of person shouldn't --
12 we have good people all the time in our society committing
13 wrongful conduct, but that doesn't mean you dismiss the good
14 aspects of their background and history.

15 And we certainly are standing before the Court
16 arguing that the Court vary from the proposed guideline
17 sentence, taking into account the longstanding, good
18 background and history of Mr. Abraham, and service, in the
19 capacity as a law enforcement officer. I won't belabor the
20 other issues raised by the Government. The Court is
21 well-aware, I'm very comfortable with the Court's knowledge of
22 the record, well-aware of the circumstances. I'm sure the
23 Court already has its own views as to what may or may not have
24 been Mr. Abraham's motivation.

25 So, we simply argue, and on behalf of Mr. Abraham,

1 that the Court not impose the advisory guideline sentence, or
2 if it were, that it be at the lowest end, but I would argue a
3 variance of downward to 18 months, Your Honor.

4 THE COURT: All right. Thank you. Mr. Abraham,
5 you can address the Court if you wish, you're not required to,
6 but you can if you want to.

7 THE DEFENDANT: I have nothing to say, Your Honor.

8 THE COURT: Okay. I'm going to take five minutes.
9 I need to redo a couple of things here since we're in a
10 slightly different posture with the restitution, and then I'll
11 come back out so that it works smoothly here. So, I'll be
12 back in about five minutes.

13 COURTROOM DEPUTY: All rise. This Court stands in
14 recess for five minutes.

15 BRIEF RECESS

16 AFTER RECESS

17 THE COURT: All right. In addition to the advisory
18 sentencing guidelines, which the Court has already indicated
19 its calculation. The Court considers the pleadings, arguments
20 and record in the case, in addition to the following
21 information in determining a fair, appropriate and reasonable
22 sentence, in conformance with the factors set out in 18 U.S.C.
23 3553(a).

24 The defendant is 55 years old. He does not have a
25 criminal history. In terms of education, he's a high school

1 graduate. He's a master instructor for police officers. He's
2 been a certified police officer or is one in Ohio. He's
3 licensed in Georgia as a security officer and private
4 investigator, and he's been an instructor in firearms
5 training.

6 In terms of the military, he enlisted in the U.S.
7 Marine Corps, he was honorably discharged four years later.

8 In terms of work history, 1996 he established a company with
9 his wife to conduct private investigations, part of the work
10 was doing background investigations. His wife is a majority
11 owner of that company. He worked also as an independent
12 contractor to do these background checks for OPM, Kroll and
13 SA-TECH. In 2007, he established another company doing
14 business as OXY Magic of North Atlanta, which is a carpet and
15 upholstery cleaning company.

16 Although they don't go back further than 10 years
17 on work history, I did ask the probation officer to contact
18 Mr. Abraham about earlier jobs that he had had as a police
19 officer, and that information was provided because he had been
20 a law enforcement officer for quite a number of years before
21 he started doing the private investigations.

22 In terms of finances, there are limited amounts in
23 the bank accounts and the IRA account. They do own their own
24 home and a 2006 BMW, there appears to be no equity in either.
25 The income between 2003 and 2007 was in the \$50,000, \$60,000,

1 \$75,000 range. They have a joint credit card debt of over
2 \$80,000, and the wife owes individually -- some of this may be
3 related to the business, over \$79,000 on her own credit card
4 debt. They have borrowed money from his brother to pay for
5 legal fees and other expenses.

6 Although, I do think he will have a future earning
7 capacity, it won't be in the law enforcement area, but I think
8 that -- my sense is that Mr. Abraham will figure out another
9 way of providing income for himself and his wife. I do think
10 one thing he could do is to get rid of the BMW so you don't
11 have \$600 to pay on the note. But I do think that he cannot
12 pay both a fine and restitution, and so my preference would be
13 restitution, if a calculation that's appropriate and founded
14 can be presented to the Court at a later point.

15 In terms of mental health or emotional, there's no
16 issue. Substance abuse, the test was negative. He hasn't
17 consumed alcohol in the last 29 years. In terms of physical
18 condition, he does have various medical conditions. He's on
19 some medications and he also has some injuries that are left
20 from when he was a police officer.

21 In terms of personal, very briefly, he was born
22 into an intact union. He was born in Philadelphia. His
23 father was a retired clothing manufacturer and his mother a
24 retired child care provider. His brother is a Vice-President,
25 Morgan Stanley. He and his brother are very close. The

1 defendant has been married five times. His present wife has
2 worked in the private investigation business with him, and
3 she's been very supportive and continues to be so.

4 The defendant has three adult children, for two of
5 the children he was the primary caretaker for various periods.
6 He enlisted in the U.S. Marine Corps. During the four years
7 he was assigned overseas. And then in '75 to '96 he worked
8 variously as a police officer at the Philadelphia Naval Base.
9 He was a border patrol officer. He was a police officer in
10 two jurisdictions in Georgia. And then in approximately 1996
11 he started work as a private investigator, and then acted also
12 in a capacity as a Major with the Fulton County Sheriff's
13 office.

14 In the offense conduct, and I'm going to do this in
15 very summary form, we discussed some of it. In 2005-2006, the
16 defendant was employed by three companies as an investigator
17 under contract to conduct background investigations on behalf
18 of OPM. The purpose of the investigations the defendant was
19 involved in was to aid in the determination of an individual's
20 suitability for positions having access to classified
21 information, for positions impacting national security, and
22 for either receiving or retaining security clearances.

23 The investigator would be expected to conduct
24 interviews of individuals who had information regarding the
25 subject of the investigation, and the investigator was also

1 expected to review documentary evidence such as employment
2 records. The investigator would prepare a report of
3 investigation containing the results of the investigation,
4 which would be submitted to OPM and were then forwarded to the
5 agency for them to decide whether the subject was a suitable
6 candidate for the security clearance. The agency requesting
7 the investigation would rely on the report of investigation
8 for its decision.

9 Between June of 2005 and March of 2006, we have six
10 cases at issue. Two sources were never contacted, three
11 sources were not interviewed as required by OPM. All sources
12 testified they didn't know the subject well enough to give
13 information on a recommendation. One additional source never
14 provided employee records. The defendant put in his report of
15 investigations regarding the subjects at issue that he
16 reviewed the employee records, had interviewed sources, and
17 that they had provided him information regarding the subject
18 which he provided in his report.

19 All these statements were false and material and
20 they influenced the Government's decision with respect to the
21 subjects who were seeking clearances. They were seeking
22 top-secret security clearances in connection with positions
23 with the U.S. Air Force, Navy, Army and the Treasury
24 Department. Because of the false statements in his report of
25 investigation, it required OPM to reopen, rework numerous

1 background investigations conducted by the defendant during
2 the time period of his falsifications. So, OPM did re-work
3 110 cases, re-contacted 732 sources at a cost to OPM, since
4 the agencies had already paid once and were not going to pay
5 again.

6 In terms of the sentence -- and it is always
7 difficult when there is not a prior criminal history, but
8 there is no prior criminal history here. Mr. Abraham does
9 have family support and community support, the letters
10 certainly attest to that. He's had public service positions
11 in the past. The military. He's been a police officer in
12 various jurisdictions. He continued to be an instructor on
13 police procedures even when he went into doing his own
14 investigations. These felony convictions will preclude him
15 from doing police and investigative type work again.

16 Therefore, it's true that I think the defendant is
17 unlikely to engage in this harm or damage again in the same
18 way. Deterrence, however, is of considerable importance in a
19 broader sense. These investigations and clearances continue
20 for sensitive positions with access to classified information,
21 and they are very important. These are national security
22 cases, so it's not secret, it's at a top-secret level. One of
23 the subjects he investigated shouldn't have been cleared, that
24 could have created great damage.

25 Now, I say that to point this out that this is a

1 serious matter with serious consequences. The Government has
2 not argued that they found that somebody should not have been
3 cleared -- in terms of the information, what they did find is
4 that the information couldn't be verified or was false. But
5 I'm trying to point out that this is not sort of a minor
6 investigation. These are individuals that are going to have
7 access to some very sensitive material, particularly during
8 this period of time.

9 We're talking about the military agencies, we're
10 talking about Treasury, and the military agencies during a
11 period that we're conducting two wars. This is very serious
12 in terms of having people have access to very sensitive
13 material. That a great deal of harm could have been done.
14 That it didn't happen doesn't change the fact that it's
15 serious, and the consequences could have been.

16 The motivation -- it's always difficult to get into
17 someone's mind and figure out why they do things. I think it
18 was certainly deliberate, because this isn't just writing
19 down, I talked to this person. This had to be, I talked to
20 this person, but also all this extra information that
21 supposedly the person provided. Which, if you didn't talk to
22 them, you didn't get that information from that individual, so
23 you had to get it from other places. So, it required some
24 work on Mr. Abraham's part to basically do these Report of
25 Investigations and put down information that didn't come from

1 the source, but evidently came from other -- from the source
2 himself or herself or from other subjects -- other sources or
3 perhaps from the subject.

4 But I agreed with the Government that it appeared,
5 and even from the testimony of Mr. Abraham, that he was
6 under -- he wanted to continue to do as many investigations as
7 he could. There was some pressure from the company to do
8 these investigations, but it seemed to me it's his choice as
9 to how many he did and whether he could in the timeframe they
10 gave him do the kind of work that needed to be done here. And
11 I think that that was something that he could control.

12 So, I think that I agree with the Government in
13 terms of -- that greed had something to do with this, in terms
14 of doing as many as possible to get paid. He wasn't able to
15 do it within the timeframe, but he still wanted the money, so
16 he came up with the scheme of doing it. If it had been one or
17 two -- you indicated, Mr. Parker, and it's true, they didn't
18 proceed with all of the charges in the original indictment. I
19 think they pared it down to, I assume, their strongest ones.

20 And obviously in terms of it being a more direct
21 representation in terms of the credibility, in terms of their
22 denying they -- and for two of these people that they were
23 ever contacted, and the others that didn't know them well
24 enough. So, it was not -- did he do as much of the interview
25 as he might have. These people couldn't have provided him

1 information relating to the subject of the investigation. So,
2 I cannot but feel that this was greed and not some other
3 motivations.

4 He owes a lot on credit bills but, you know, he
5 bought an expensive BMW at a point when I would think that
6 some cutting back on expenses would have been the way to do
7 this. Certainly he's been a law enforcement officer all of
8 his working life. On the one hand that shows that he's been
9 involved in public service. On the other hand, it makes it
10 less excusable, frankly, and he should certainly appreciate
11 right from wrong. And that if you do things like this that
12 there are consequences for it, because that is the work that
13 he was involved in.

14 And I think Mr. Abraham has lost, during this
15 period of time, his moral compass. It certainly was
16 compounded by the fact that having gotten into trouble
17 relating to doing these Reports of Investigation he then went
18 and put in an application, his questionnaire, which the
19 questionnaire for public trust positions, and made false
20 representations when he was seeking the job at TSA to do these
21 investigations. So, that is on top of what he had done with
22 the information and the false information in the Report of
23 Investigations.

24 But I think the other aspect of this is that
25 Mr. Abraham got on the stand and lied under oath during the

1 trial, and that's a choice he made. He listened to the
2 evidence and he made a choice. He certainly is entitled to
3 put the Government to their proof, but he made a choice in
4 getting up on the stand and lying under oath. That was the
5 jury's view, and frankly, that was mine. If I had been the
6 decision maker, I would have made the same decision. And he
7 has not to date accepted responsibility for his actions, which
8 is a key element to rehabilitation.

9 And 3553(a), you consider, among other things, the
10 seriousness of the offense, the respect for the law, a just
11 punishment for the offenses and deterrence to others and to
12 him, but probably the deterrence to others is the biggest one,
13 in terms of giving false information in any circumstances,
14 whether it's during these investigations, filling out
15 questionnaires or anything else.

16 Now, the calculation under the advisory sentencing
17 guidelines, which the Court -- it's advisory, not mandatory.
18 The Court can consider and can do a variance or can sentence
19 within those. With the obstruction of justice, it's 18 with a
20 category one, which is 27 to 33 months. Even if they had --
21 less the two points for the -- I had not given him the
22 obstruction of justice, as he argued, it would have been 16 in
23 category one, which is 21 to 27 months, which is -- frankly,
24 is partly somewhat of a crossover.

25 But whatever the correct calculation for the

1 offense level, whether it's 18 or whether it's 16, it's my
2 view that a sentence of 27 months is appropriate, reasonable,
3 it's a fair sentence, considering the factors under 3553(a),
4 and therefore, the sentence is sufficient but not greater than
5 necessary to accomplish the objectives.

6 The restitution, as I said, will -- I'm not
7 ordering it at this point at the \$101,001.63, but it's either
8 that or whatever the Government comes back to, if they can,
9 with another figure. So, in terms of the sentence itself at
10 this point, leaving aside the issue of the restitution --

11 It's the judgment of the Court that, you, George
12 Abraham, are hereby committed to the custody of the Bureau of
13 Prisons for concurrent terms of 27 months on each of Counts 2,
14 Counts 4 through 7, and Count 11. You're further sentenced to
15 serve a 36-month term of supervised release on each of Counts
16 2, Counts 4 through 7, and Count 11, to run concurrently with
17 each other. You're ordered to pay a special assessment of
18 \$600.

19 The Court finds that you don't have the ability to
20 pay a fine in addition to any possible restitution, so I will
21 waive at this point imposition of a fine in this case. We'll
22 leave the issue of restitution for a later determination. The
23 special assessment is due immediately to the -- payable to the
24 Clerk of the Court for the U.S. District Court in D.C. Within
25 30 days of any change of address you'll notify the Clerk of

1 the Court of the change until such time as the financial
2 obligation is paid in full.

3 The Court waives any interest or penalties that may
4 accrue on unpaid balances. You can make payments on the
5 special assessment through your participation in the Bureau of
6 Prisons Inmate Financial Responsibility Program, if there is
7 restitution ordered, you can do it as well. Within 72 hours
8 of release from custody, you'll report in person to the
9 probation office in the district to which you are released.

10 While on supervision you shall not possess a
11 firearm or other dangerous weapon, you'll not use or possess
12 an illegal controlled substance. You shall not commit another
13 federal, state or local crime. You shall also abide by the
14 general conditions of supervision adopted by the U.S.
15 Probation Office as well as the following special conditions.

16 You'll be required, pursuant to the statute for all
17 felony offenses, to submit to the collection and use of DNA
18 identification information while incarcerated in the Bureau of
19 Prisons or at the direction of the U.S. Probation Office. You
20 are prohibited from incurring new credit charges, opening
21 additional lines of credit, or negotiating or consummating any
22 financial contracts without the approval of the probation
23 office. You shall provide the probation office with your
24 income tax returns or authorization for release of credit
25 information, and any other business or financial information

1 in which you have a control or interest for the duration of
2 your supervised release.

3 The probation officer shall release the presentence
4 investigation report to all appropriate agencies in order to
5 execute the sentence of the Court. You have a right to appeal
6 all matters that were related to the trial, as well as the
7 sentence imposed by the Court. If you choose to appeal, you
8 must do so within 10 days after the Court has entered judgment
9 in this case. If you are unable to afford the cost of an
10 appeal, you can request permission from the Court to file it
11 at the expense of the Government.

12 In terms of any appeal, it's basically a Notice of
13 Appeal, arguments, et cetera, and briefs are done at a later
14 point. You should talk to Mr. Parker, if that's what you wish
15 to do, to have it done within a timely manner. I will set a
16 date for -- if there is going to be a request for restitution.
17 I believe I'll hear from the Government, if there's an
18 objection, but I do think that Mr. Abraham can voluntarily
19 surrender to the Bureau of Prisons, unless you have an
20 objection?

21 MS. EPSTEIN: No objection, Your Honor.

22 THE COURT: All right. In terms of the
23 restitution, let me figure out 90 days and work backwards.
24 What is the 90 days?

25 COURTROOM DEPUTY: May 28th.

1 THE COURT: Okay. I would suggest that we do it --
2 can you get a sense of how long this is going to take you to
3 do, I would hope we can do it faster than 90 days.

4 MR. ZENO: Your Honor, may we have just a moment?

5 THE COURT: Certainly.

6 MS. EPSTEIN: Your Honor, we are estimating that we
7 would probably need about six weeks. We have to have some
8 discussions beyond today amongst ourselves, but I think that
9 should be sufficient.

10 THE COURT: Why don't I set it up that -- the way
11 I'll do this -- let's say by April 17th, no later, so that's
12 the outside date. You would indicate both to Mr. Parker or
13 whomever is representing Mr. Abraham, I would assume it will
14 be Mr. Parker, and to the Court, that you're going to be
15 requesting it. And you can obviously let Mr. Parker know what
16 it is and what you're basing it on so he has an opportunity --

17 What I would like to do then is to set a date where
18 you'd put something in writing about what the figure is and
19 how you came up with it, and then I'll give Mr. Parker, on
20 behalf of Mr. Abraham, an opportunity if you want to contest
21 something, so at least we know in advance of coming in whether
22 there's an issue about it.

23 MR. PARKER: Along that line, if I may, I'll just
24 state right now for the record, I mean, I'm comfortable that
25 we can be in conversation with the Government, if they can

1 layout the methodology of the calculation, and I assume that
2 Agent Kroop would then put that in an affidavit, then unless I
3 could -- and I can't envision being able to question that.

4 THE COURT: It would really be more in terms of the
5 methodology that I would see -- I'm assuming --

6 MR. PARKER: Right. I'm just not in a position to
7 know what it is, and so when they do it, you know, it is what
8 it is. And I'm sure whatever figures seem to be attributable
9 to what the Court is asking for is what they are going to
10 represent.

11 THE COURT: I think, hopefully, they would
12 informally, at least, sit down with you and give you an
13 explanation of their methodology and how they came -- they
14 should have supporting documentation for it. So, if we did
15 that, the 17th -- that gives you actually an extra week in
16 there, but --

17 MS. EPSTEIN: Your Honor, when we said six weeks,
18 we actually were envisioning submitting something in writing
19 in six weeks, so we could do that by the 17th.

20 THE COURT: Oh, okay. That's even better. Okay.
21 Let me set a hearing to address this. Is May 1st available
22 for you?

23 MR. PARKER: I think it is, Your Honor. But I'd
24 just question whether -- if we're in agreement with the
25 Government's figures whether a hearing would be necessary.

1 THE COURT: Okay. I mean, what I can do, if you
2 put something in writing that indicates that he's in
3 agreement, which would have to be Mr. Abraham basically
4 agreeing to it.

5 MR. PARKER: Right.

6 THE COURT: Then I would amend the judgment to add
7 the restitution. One of the issues would be what he would pay
8 monthly, he's not going to -- I don't know what the figure is
9 going to be. But the likelihood of his being able to pay all
10 of it probably is pretty slim. Probation had suggested --
11 whatever -- the UNICOR program just has you -- they figure out
12 how much you get to keep, et cetera, in terms of working, and
13 what you put towards special assessments if you haven't paid
14 them, and restitution. So, it's really more an issue when you
15 get out.

16 My proposal, which Probation had suggested, is that
17 at least to start with when he first gets out, that it be \$50
18 a month, which he should certainly be able to pay. And then
19 you can move it up, depending on what his income is, we can do
20 something else, or if he's in better shape when he gets out.
21 I wouldn't make it lower than \$50, but that would be roughly
22 it.

23 MR. PARKER: Just so that this record, and I think
24 it is, clear, but to make it -- the Court's intention is to
25 impose a form of restitution?

1 THE COURT: Assuming that they come up with
2 something that I feel is supported by documentation.

3 MR. PARKER: Right.

4 THE COURT: Not a fine, I've already taken that off
5 the table.

6 MR. PARKER: Right. That having been decided then,
7 I think I can agree that with an explanation of methodology
8 and figures that would be sworn to, I'm sure I don't need a
9 hearing then to address any issues.

10 THE COURT: Okay. Why don't I set then May 1 as
11 either a hearing and/or you'll get a new judgment. I want to
12 just put it on the calendar so that if for some reason we need
13 it, I have it. But I do need something from Mr. Abraham, once
14 he's looked at it, to indicate -- not that he's agreeing to
15 restitution, but that he doesn't ask for a hearing to contest
16 it.

17 MR. PARKER: I understand and I'll help facilitate
18 that. And while I'm here, Your Honor, I understand the Court
19 has granted voluntary surrender. I would request that the
20 Court consider recommending the Atlanta camp, which is a camp
21 facility there in Atlanta.

22 THE COURT: I don't have a problem with that. They
23 usually try and put you close to home anyway, but I can do
24 that.

25 MR. PARKER: Thank you.

1 THE COURT: Okay. And, Mr. Abraham, you will get
2 the -- you should talk to probation, you will get a notice in
3 terms of -- just so that you know what happens in terms of how
4 that particularly works. All right. Good luck. Parties are
5 excused.

6 END OF PROCEEDINGS AT 10:27 A.M.

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10 C E R T I F I C A T E

11 I, Lisa M. Hand, RPR, certify that the
12 foregoing is a correct transcript from the record of
13 proceedings in the above-titled matter.

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Lisa M. Hand, RPR

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